

REMARKS

In response to the Office Action mailed on May 12, 2005, Applicants submit the following Amendment and Response.

35 U.S.C. § 112

Claims 26-40 were rejected under § 112, first or second paragraph, as being incomplete for omitting essential elements zinc and potassium. The Examiner argued that the specification in paragraphs 0027 and 0031 indicates that the elements zinc and potassium are essential for wound healing but that the claims do not require the presence of zinc or potassium. The Applicant respectfully traverses this requirement. First, claims 26-40 as previously presented disclosed compositions requiring "at least one metal ion selected from zinc, rubidium or a composition of zinc and rubidium ions." Second, neither paragraph cited by the Examiner specifically required the presence of zinc and potassium essential elements of the disclosed wound healing composition. Specifically, paragraphs 0027 states that "the active ingredients of the present composition have been found to include zinc, potassium, rubidium and/or calcium....zinc appears to be essential for the healing qualities of the present composition and rubidium is also strongly indicated." Paragraph 0027 therefore only requires at least one of zinc, potassium, rubidium and/ or calcium and moreover does not make any reference to the essential nature of potassium. Likewise, paragraph 0031 states that "the present inventors have found that at least one or more of the ions of zinc, potassium, rubidium and calcium (in certain compositions) are essential to obtaining the afore-noted dramatic results of wound healing." Thus, applicants respectfully request withdrawal of this rejection and reconsideration of the claims as previously presented.

35 U.S.C. 103(a)

Claims 26-40 were rejected under 35 U.S.C. § 102(a) as being unpatentable over WO 94/11010 to Hon et al. in view of Swerczek (U.S. Patent 4,600,711), Ashcroft et al., Chen et al. and Souza et al. The Examiner argued that while “the prior art does not expressly disclose a method of demodulating MMPs, such as MMP-2 or MMP-9, with zinc and zinc and rubidium...the prior art amply suggests the same as the prior art discloses a wound healing composition containing zinc, rubidium, potassium and calcium, a wound healing and infection prevention composition containing citric acid buffered to a pH range of 3.0 to 6.5, that chronic wounds are characterized by elevated levels of MMP-2 and MMP-9 and low levels of inhibitors of MMPs, whereas normal skin contains low levels of MMP-2 and undetectable levels of MMP-9 and that zinc sulfate inhibits MMP-2 and MMP-9.” (pg. 4). Reconsideration of this rejection is respectfully requested. We believe that the Examiner has omitted a critical step in his logic argument that it would have been obvious to combine these references. Namely, the Examiner has provided references that show that elevated levels of MMP-2 and MMP-9 are present at chronic wound sites, that Zinc sulfate inhibits MMP-2 and MMP-9 and that compositions containing zinc, potassium, rubidium and calcium are effective for wound healing. However, the Examiner has not provided any reference that suggests that the demodulation of the MMP's results in dramatic increases in wound healing. Thus, in the absences of understanding the link between MMP levels and wound healing, there would be no teaching to perform the claimed steps of “monitoring the demodulation of one or more MMPs in the tissue and re-administering the composition to the tissue until the one or more MMP levels returns to zero.” Applicants therefore respectfully submit that the cited references fail to disclose, teach, or suggest all

of the limitations of the currently pending claims and that these claims are patentably distinct from the cited references and are in condition for allowance.

CONCLUSION

Because the cited references neither alone nor in combination disclose, teach, or suggest all of the limitations of the present claims, Applicants respectfully submit that the claims are now in condition for allowance. Favorable action on the merits of the claims is therefore earnestly solicited. Please charge Deposit Account No. 50-2862 for the 3-month extension fee and any other fees required by this submission. Applicants invite the Examiner to telephone the undersigned representative if the Examiner believes that a telephonic interview would advance this case to allowance or if any clarifications are necessary.

Respectfully submitted,

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